

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of the California Public Utilities)	CC Docket No. 99-200
Commission for Authority to Implement)	DA 02-2845
Technology-Specific Overlays)	

To: Wireline Competition Bureau

REPLY COMMENTS OF VERIZON WIRELESS

The initial comments in this proceeding echo Verizon Wireless's concerns regarding the urgent need for relief in the 909 and 310 Numbering Plan Areas ("NPAs") and the legal infirmities of the California Public Utilities Commission's ("CPUC") petition, which proposes to implement a technology specific overlay ("TSO") with takebacks of wireless numbers. Given the urgency of the situation, the FCC should summarily deny the CPUC's petition for authority to implement technology specific overlays ("TSOs") in the 909 and 310 NPAs and direct the North American Numbering Plan Administrator ("NANPA") to implement all-services overlays in these NPAs immediately.

Relief is long overdue, and even the CPUC's petition acknowledges that these NPAs "are nearing exhaust."¹ NANPA's latest report indicates that exhaust is likely in the second quarter of 2003, only a few months away.² The comments provide ample justification for denying the petition and authorizing NANPA to move forward with all-

¹ CPUC Petition at 1.

² See NPA Exhaust Report submitted by NANPA to the NANC November 19, 2002, www.nanc-chair.org.

services overlays that will not require millions of California consumers to endure forced number changes.³ In defense of its petition, CPUC officials have publicly stated their dislike for implementing another geographic split in the 310 NPA (and presumably other California NPAs). We agree. However, the alternative remedy to a geographic split cannot legally be a discriminatory TSO, complete with wireless takebacks and a permanent ten-digit dialing waiver. The best remedy is an all-services overlay, which can be implemented in as few as ten months. This solution has been implemented successfully in many other states with major metropolitan areas and sizeable populations.⁴ Given the exhaust timeframe, immediate action is necessary to implement an all-services overlay.

I. THERE IS NO BASIS IN THE RECORD FOR GRANTING THE CPUC'S PETITION

The record in this proceeding does not support granting the CPUC's petition for TSOs in the 310 and 909 NPAs. Neither the petition nor the few comments filed in support of it provide sufficient basis, in law or policy, for granting the petition. To the contrary, there is ample justification and support in the record for denying the petition without further delay.⁵ Verizon Wireless does not support further regulatory procedures such as requiring the CPUC to reform and resubmit its TSO proposal.⁶ Unfortunately,

³ Comments by Nextel at 3-9; United States Cellular Corporation at 3-6; CTIA at 3-12; AT&T Wireless at 4-15; T-Mobile at 8-12; j2 Global Communications, Inc. at 2-7; OnStar at 2; SBC Communications at 1-5; Verizon at 2-7; and WebLink Wireless, Inc. at 4-8.

⁴ See www.nanpa.com for a complete list, including New York, Pennsylvania, New Jersey, Texas, Colorado, Maryland, Oregon, Georgia, North Carolina, Illinois, Connecticut, Ohio and Massachusetts. The Florida Commission has even successfully implemented all-services overlays covering areas such as Miami, Fort Lauderdale and Orlando, each with sizeable populations of elderly citizens.

⁵ See *infra* fn #3. Verizon Wireless agrees with AT&T Wireless Inc.'s request for expedited resolution in this proceeding. See Comments by AT&T Wireless, Inc. at 1.

⁶ Verizon Wireless does not support withholding action in this proceeding until the CPUC further amends its petition to cure its defects and provide the analysis required by the FCC. See Comments by OnStar at 2.

the CPUC has allowed these NPAs to come so close to exhaust that there is no alternative at this point except to order immediate relief implementation. Given current exhaust projections by NANPA, there is no time to await submission of a more acceptable proposal, a comment cycle, and a FCC decision, even on an expedited basis.

A. Most Commentors Firmly Support Denying the CPUC's TSO Petition

Wireless carriers, including a unified messaging carrier and a paging carrier, local exchange carriers, a telematics provider, and CTIA rejected the CPUC's proposed TSOs under their current terms.⁷ Much criticism of the proposed TSO is due to the fact that it entails takebacks of wireless customers' numbers and a permanent dialing disparity. Many commentors note that the distinction the CPUC's petition tries to create between seven-digit and ten-digit takebacks is inconsistent with Commission precedent and is belied by the fact that handsets must nevertheless be reprogrammed -- with all the burdens that reprogramming entails for individual consumers and businesses.⁸ Verizon Wireless agrees with Nextel that any TSO proposals should be prospective in nature and should not include takebacks.⁹ In this case, however, the record clearly shows that there is no basis for a TSO, and that the FCC should order an all-services overlay.¹⁰

T-Mobile proposes "conditions" for granting the petition which essentially negate the CPUC's proposal as written -- and convert the proposed TSOs into a wireless first, prospective overlay with a temporary ten-digit dialing waiver. Specifically, T-Mobile provides conditions that include the removal of takebacks and limit any ten-digit dialing waiver and the transition period to less than one year (*e.g.*, to November 24, 2003), with

⁷ See *infra* fn#3.

⁸ *Id.*

⁹ Comments by Nextel at 4.

an end-point consistent with the beginning of CMRS number portability.¹¹ These conditions recognize that TSOs are inconsistent with the portability mandate. While T-Mobile's proposal could help alleviate the urgent numbering shortage in these two NPAs, the CPUC's proposal bears little likeness to it. The CPUC's TSO proposal, as presently conceived, makes no sense and should be denied.

B. The Few Comments in Support of the CPUC Petition Do Not Help Remedy Its Defects

The New York Department of Public Service ("NYDPS") and The Utility Reform Network ("TURN") supported the CPUC petition.¹² The NYDPS expressed its support for states having the flexibility to craft area code relief to address local needs and, without any factual support, asserted that the CPUC's request would pose few adverse consequences to large businesses and consumers.¹³ *In fact*, large and small businesses that provide wireless handsets to employees would be adversely affected by takebacks because of the need to reprogram handsets with the new numbers, inform clients and colleagues of the changes, and reprint business stationary and signage. The FCC can continue to recognize the importance of local area code relief decisions by sharing its exclusive authority over numbering with the states, but in exchange, the FCC must insist that states order relief when necessary, even if it is politically difficult to do so. The CPUC has received grants of numbering authority from the FCC, but has failed to implement relief that is critical to competition and consumer welfare.¹⁴ There can be no

¹⁰ See *infra* fn #3; See also Comments by Verizon Wireless at 10 (stating that a TSO is counterproductive to pooling).

¹¹ Comments by T-Mobile at 5.

¹² Comments by TURN at 2; by the NYDPS at 1-2.

¹³ Comments by the NYDPS at 2.

¹⁴ See Letter from Yog R. Varma, Deputy Chief, Common Carrier Bureau, to Helen M. Mickiewicz, California Public Utilities Commission, dated December 1, 1998 (DA 98-2463); *California Public Utilities*

additional flexibility when exhaust is only a few months away. Moreover, the solution for this crisis is not to impose all of the burdens of relief on one industry segment and its customers.

The NYDPS also supported the CPUC's request for a ten-digit dialing waiver by stating that the waiver granted to the NYDPS for the 917 NPA did not impede the growth of wireless services.¹⁵ The NYDPS provides no basis for this assertion except the existence of many wireless subscribers in the 917 NPA. Absent the dialing disparity, competition and growth may have been even more significant. The FCC, however, in a subsequent area code relief proceeding in New York, denied the NYDPS's request for a permanent waiver for the 646 NPA, rejecting a similar argument by the NYDPS that competition would not be impeded because it already existed between LECs and CLECS (as demonstrated by the demand for new telephone numbers).¹⁶ The Court of Appeals for the Second Circuit recently upheld the FCC's decision to mandate ten-digit dialing of local telephone calls coincident with area code overlays.¹⁷ The existence of many wireless subscribers in a vastly populous major metropolitan area does not demonstrate that the ten-digit dialing waivers did not impede competition from new entrants or between wireless and wireline services. The NYDPS' rationale is insufficient to justify a *permanent* waiver from mandatory ten-digit dialing.

Commission Petition for Delegation of Additional Authority Pertaining to Area Code Relief and NXX Conservation Measures, Order, 14 FCC Rcd. 17,486 (1999).

¹⁵ Comments by the NYDPS at 2.

¹⁶ *New York Department of Public Service Petition for Expedited Waiver of 47 C.F.R. §52.19(c)(3)(II)*, 13 FCC Rcd. 13491 (1998).

¹⁷ *People of the State of New York & Public Service Commission of the State of New York v. F.C.C.*, 267 F.3d 91 (2d Cir. 2001).

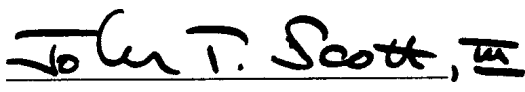
TURN urges the FCC to grant the CPUC's petition and asserts that the petition meets the FCC's criteria.¹⁸ Verizon Wireless provided detailed reasons in its initial comments why the CPUC has failed to meet the FCC's standards for obtaining the requested relief.¹⁹ TURN offers no additional information than what was already provided in the CPUC's petition and therefore does not cure the multiple defects of the CPUC's petition.

II. CONCLUSION

For the reasons provided herein, as well as in its initial comments, Verizon Wireless urges that the Commission to deny the CPUC's petition for authority to implement TSOs in the 909 and 310 NPAs and to immediately order NANPA to implement all-services overlays in these areas.

Respectfully submitted,

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¹⁸ Comments by TURN at 2.

¹⁹ Verizon Wireless comments at 2-14.

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